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November 24, 1992

EPA REGION VIII
HAZARDOUS WASTE
MANAGEMENT DIVISION

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Richard J. Guimond
Deputy Assistant Administrator
U.S. Environmental Protection Agency
Office of Solid Waste and Emergency Response
401 M Street, S.W.
Washington, D.C. 20460

RE: Summary of September 15, 1992 Meeting Concerning
EPA's Proposed Listing of the Richardson Flat
Site, Summit County, Utah, on the National Priori-
ties List

Dear Mr. Guimond:

Pursuant to your request for a written summary, the following is a summary of the meeting held in Congressman Wayne Owens' office on September 15, 1992, concerning EPA's proposed listing of the Richardson Flat site, Summit County, Utah, on the National Priorities List ("NPL").

Congressman Wayne Owens requested this meeting because of his concern that a number of procedural and substantive irregularities have occurred in EPA's analysis of the Richardson Flat site. Congressman Owens was called away from the meeting at the last minute by an emergency, and Joshua Sheinkman, Administrative Assistant to Congressman Owens, chaired the meeting in Congressman Owens' absence. Mr. Hank Rothwell, President of United Park City Mines Company, Mr. Edwin L. Osika, Jr., Executive Vice President of United Park City Mines Company, and Rosemary J. Beless, attorney for United Park City Mines Company, were in attendance at the meeting. Mr. Richard J. Guimond, Deputy Assistant Administrator, U.S. Environmental Protection Agency, Barbara O. Bach, Environmental Scientist with the U.S. Environmental Protection Agency, and two additional EPA staff members also attended the meeting.

At the meeting, Ms. Beless, attorney for United Park City Mines Company, explained that this meeting was requested because United Park City Mines Company is extremely concerned

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that someone at EPA is determined to list the Richardson Flat Tailings site in Summit County, Utah, on the NPL in spite of the fact that the scientific, quantified, analytical data which EPA has collected for this site does not support such a listing. In fact, such listing appears to contradict EPA's own analytical reports. For instance, EPA's 1989 Supplemental Site Inspection Report concludes there is no release to surface water from the Richardson Flat site, and EPA's 1988 Analytical Results Report for Ambient Air and Residential Characterization at Prospector Square, Park City, Utah, concludes that there is no air release of contaminants from Richardson Flat to Prospector Square, which is the closest population center.

Background of EPA's Proposed Listing

Ms. Beless then explained the background of EPA's proposed listing. She stated that EPA first proposed to list the Richardson Flat site in 1988 on the basis of a 1985 surface water sampling investigation in which EPA's contractor did not take a surface water sample downstream from the Richardson Flat site. In its Comments to EPA, United Park City Mines Company ("United Park") pointed out that the surface water sampling study contained no downstream sample.

In response to United Park's Comments, EPA caused a new surface water sampling study (with both upstream and downstream samples) to be conducted at the site in 1989 in order to find out if there was any release of contaminants into the surface water from the Richardson Flat site. EPA's new study definitively concluded that there was no release to surface water from Richardson Flat:

Analytical results of surface water and sediment samples collected from Silver Creek and the diversion ditch do not support an observed release of contaminants to surface water.

* * *

In summary, no observed release of contaminants attributable to the site has been clearly documented. [EPA's 1989 Supplemental Site Inspection Report, pp. 21 and 23.]

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With no release to surface water, Richardson Flat observations, Sam scored so low under the old Hazard Ranking System that EPA supplemental Site dropped the site from consideration for the NPL on February 11, 1991.

Now, with no additional testing, sampling, or studies performed at the site, EPA is again proposing to list Richardson Flat on the NPL under the new Hazard Ranking System.

Surface Water

Mr. Osika then explained some of the substantive problems in EPA's proposed listing concerning surface water issues. Mr. Osika stated that because EPA's own study concludes there is no release to surface water, EPA apparently attempts to contrive a release to surface water by means of photographs and the inaccurate and inconsistent recollections of EPA's contractors. The problem with EPA's attempt to show a release to surface water by means of photographs is that the aerial and on-site photographs cannot and do not show a release of tailings to surface water. It is physically impossible, visually or photographically, to "observe releases" of tailings into surface water, since the natural soil in the area (alluvium derived from local tan to gray volcanic rocks) is easily mistaken for "tailings" (light gray in color).

Mr. Osika then showed the group a photograph of natural volcanic alluvium at the site and a photograph of tailings, and Mr. Osika explained that the tailings, and the natural volcanic alluvium cannot be distinguished by color or in the photographs. Only sampling and analysis can show a "release of tailings" into the surface water, and EPA's own sampling and analysis showed that there was no release from Richardson Flat into the surface water. Mr. Osika also presented photographs at the meeting which showed the revegetation of the site. Enclosed herewith are copies of the photographs which Mr. Osika presented at the meeting.

Mr. Osika also explained that EPA has attempted to contrive a "release to surface water" by means of the inaccurate and inconsistent recollections of EPA's contractors. He stated that EPA located one employee of its contractor, two years after the employee was at the Richardson Flat site, and asked the employee if, "to the best of his recollection," the tailings extended into Silver Creek. The employee indicated that "to the best of his recollection" they did. However, his recollection is inaccurate.

The employee's observations, sampling, and analysis are compiled in the EPA 1989 Supplemental Site Inspection Report which shows no release into surface water and no tailings contact with surface water.

Mr. Osika also explained that EPA uses, as a basis for its scoring, the revised recollection of a state employee who walked around the site taking measurements, but did not take any samples or perform any testing. The state employee submitted a memorandum summarizing his site visit, without any mention of a release to surface water. Two months later, the employee revised his memorandum to say "Tailings sloughing into a diversion ditch were observed." However, the state employee took no sample of the material, and therefore, he could not know if the material he allegedly observed was tailings or the native volcanic alluvium. His revised memorandum also contradicts his original memorandum.

Likewise, Mr. Osika stated that EPA incorrectly calculated the wetland frontage for the scoring of the site, in apparent disregard to HRS guidance on this subject, and therefore, grossly over-estimated the wetland frontage area.

Mr. Osika then asked why EPA is creating this tenuous, unscientific, unsubstantiated information in an attempt to show a release to surface water when EPA's own sampling and analysis show no release.

Air

Ms. Beless then stated that EPA scored a release to air from the site on the basis of one air sample taken in 1986 -- even though that one air sample did not exceed EPA's own ambient air standards. Ms. Beless then asked why no consideration was given to the fact that, since EPA's 1986 air test, United Park has, at its own expense, covered almost the entire tailings area with topsoil and has seeded and revegetated the area.

Mr. Guimond then asked for specific details concerning United Park's work on covering the site.

Mr. Osika explained that since 1983 United Park has, at its own expense, covered the tailings area with clean topsoil and has seeded the area with native plants and generally revegetated the area. This covering and revegetation program is now approximately 75-80% complete. Mr. Rothwell then added that United Park

has, voluntarily and at its own expense, covered the tailings area with topsoil (in excess of 5,500,000 cubic feet) and has seeded and revegetated the area in order to preclude any potential dust problem.

Ms. Beless then asked the following questions concerning EPA's scoring of an air release at the site:

1. Why has EPA ignored its own conclusion in its 1988 Prospector Square Air Report that the tailings at Richardson Flat do not contribute to air contamination at Prospector Square? [Prospector Square is that portion of Park City which is closest to Richardson Flat.] EPA's own 1988 Report states:

The tailings pond at Richardson Flat did not appear to contribute to contaminant levels at Prospector Square on any of the sampling days that winds were recorded blowing from Richardson Flat to Prospector Square. It therefore appears that measurable levels of contaminants were not blown the 1.5 mile distance between the two sites by winds with average speeds of 10 to 30 miles per hour. [EPA's 1988 Prospector Square Air Report, p.23.]

2. Why is there no consideration that mountains form a barrier in the air pathway between Richardson Flat and Park City, the only relevant population center?

3. Why has EPA ignored the fact that its air samples from Richardson Flat do not exceed EPA's own ambient air standards, particularly the ambient air standard for lead?

4. Why has EPA ignored the extensive health tests on residents of Prospector Square which showed that residents' blood levels for lead were substantially lower than the national average? [No persons reside on Richardson Flat tailings; the closest community is 1.5 miles away at Prospector Square. The tests by the Agency for Toxic Substances and Disease Registry show that residents of Prospector Square suffer no harmful effects from the tailings.]

Mr. Osika then added that under EPA's "Make NPL Sites Safe Initiative" program, EPA conducted additional air testing in May 1992 at the site. EPA's analysis of the air samples collected during this air testing proves that there is no release to the air. This conclusion is confirmed by the analysis of the duplicate air samples provided to United Park by EPA during this testing. Mr. Osika then asked why EPA persists in trying to score an air release, when it has never documented a release in the past and still, today, cannot document a release to the air.

Other Questions Regarding EPA's Scoring

Ms. Beless then stated that, in order to increase the score at the Richardson Flat site high enough to propose it for the NPL, EPA combined the Richardson Flat site with another separate and distinct site: the flood plain sediments flowing down Silver Creek from Prospector Square. The flood plain sediments are of significantly different origin, composition (different chemical analysis), location, containment, and ownership than the Richardson Flat site, and the two sites should not be combined. The flood plain sediments are not a source, but are surface water sediments contaminated by migration from upstream at Prospector Square. EPA's own regulations do not allow these separate sites to be combined. In order to accurately evaluate the sites, the flood plain sediments migrating down Silver Creek from their source at Prospector Square should be separated from the Richardson Flat site and be treated on an equal basis with their originating source at Prospector Square. Ms. Beless then asked why EPA had combined these two separate sites.

Mr. Osika asked why EPA's analysis assumes that all hazardous substances (heavy metals) at the site are found in their elemental forms rather than as much less toxic compounds. These trace metals (copper, lead and arsenic) are not found in their pure elemental forms at the site, but are found as much less toxic, sulfide compounds.

Mr. Osika then asked why EPA has assumed, from its aerial photographs, that the Richardson Flat Site contains six million square feet of 100% pure elemental toxic metals, when, in fact, almost the entire site (greater than 95%) is composed of country rock (limestone and quartz).

Mr. Osika then stated that, after again proposing Richardson Flat for listing to the NPL in 1992, EPA presented an

extensive sampling plan to United Park under its "Make NPL Sites Safe Initiative" program and specifically represented to United Park that the sampling plan was to assess the safety at the site and not to address United Park's Comments to the HRS package. Then, when EPA had gained access to the site under the "Make NPL Site Safe Initiative" program, EPA blatantly attempted to deviate from the presented sampling plan and collect samples which would specifically address United Park's Comments (as documented by EPA's own August 25, 1992 Memorandum to File).

Mr. Osika then asked why EPA feels the need to gain access to the site under false and misleading representations. Mr. Osika also asked why, if EPA feels the need to perform additional sampling in order to respond to United Park's Comments, EPA cannot be honest with United Park and present a sampling plan for this purpose, as EPA did in 1989 in order to respond to United Park's Comments concerning the first proposed listing. Mr. Osika then asked why EPA felt it necessary to perform extensive sampling at the site under its "Make NPL Sites Safe Initiative" program with this proposed listing, when EPA performed no sampling and made only a "drive-by" review of the site under the previous 1988 proposed listing.

Mr. Guimond asked when United Park's covering of the tailings would be completed.

Mr. Osika responded that United Park's project to cover the tailings and revegetate the area will probably be completed in the summer of 1993 -- or sooner, depending upon weather conditions.

A New Contamination Problem Caused By EPA Monitoring Wells

Mr. Osika then stated that in recent weeks, EPA has again attempted to enlarge the Richardson Flat Site by including the former Park City Municipal Landfill within the boundaries of the site. The landfill, used by Park City during the 1970's and early 1980's, was recontoured, covered with topsoil and revegetated by the Bureau of Reclamation and the Utah Department of Transportation in order to construct the new U. S. Highway 40 through the former landfill.

Mr. Osika stated that in June 1992, EPA's contractor, E&E, under EPA's "Make NPL Sites Safe Initiative" program, drilled a monitoring well directly through the landfill and

breached the impervious clay layer which had formed a continuous barrier between the landfill materials and the groundwater. EPA's contractor did not replace this impervious barrier during well construction and completion. Therefore, the underlying groundwater could flow up the well under pressure and into the base of the formerly dry landfill. When this water discharges from the base of the landfill, either as springs or to Silver Creek, it would be contaminated by whatever is in the landfill. Likewise, when water from rainfall and/or snow-melt percolates down through the landfill and flows down through the wells into the groundwater, the groundwater below the impervious clay layer would be contaminated by whatever is in the landfill.

Mr. Osika stated that EPA violated its own guidelines by drilling the monitoring well within the landfill area. Prior to the installation of the well, the landfill was isolated from the groundwater system. EPA's contractor has now breached this natural compacted clay barrier, and EPA and its contractor are, thus, responsible for the ensuing potential groundwater and surface water contamination. Mr. Osika then asked what EPA plans to do to remedy this contamination problem which has been caused by EPA and its contractor. Mr. Osika also asked whether EPA would now attempt to blame United Park and other parties for this contamination caused by EPA and its contractor.

Mr. Guimond stated that EPA Region VIII is reviewing these issues in order to address United Park's concerns regarding the monitoring wells drilled in the landfill.

Conclusion

Ms. Beless then stated that United Park's concern is that EPA will cause millions of dollars to be spent on a Remedial Investigation/Feasibility Study at the Richardson Flat site before EPA has even read and addressed United Park's detailed, substantive Comments in opposition to listing the site. This money need not be expended if EPA were to first address United Park's Comments.

Ms. Beless then explained that, as of this date, the Region VIII project manager for the site had told her that he had not read United Park's Comments. Ms. Beless then asked if there were any incentive for a project manager to delist the site, since he would only receive a bonus if he saw the site through the listing and remediation processes.

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Mr. Guimond assured Ms. Beless that this was not the case, but that incentives were sometimes given to EPA personnel for superior performance.

Ms. Beless then asked Mr. Guimond if EPA would agree that no Remedial Investigations, Feasibility Studies, or similar studies would be conducted at Richardson Flat until such time as EPA has responded to United Park's Comments and has made a final decision as to the listing of the Richardson Flat site on the National Priorities List.

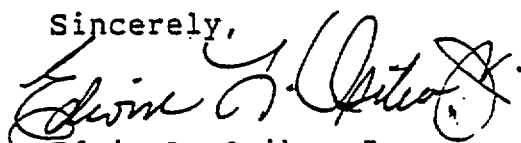
Mr. Guimond agreed that no Remedial Investigations, Feasibility Studies or other additional studies will be conducted until such time as EPA has responded to United Park's Comments and has made a final decision as to the listing of the Richardson Flat site on the NPL.

Ms. Beless then reiterated her same question, and Mr. Guimond gave the same response. Mr. Guimond also assured Ms. Beless, Mr. Osika and Mr. Rothwell that EPA would thoroughly consider United Park's Comments before EPA made a final decision as to the listing of the Richardson Flat site on the NPL. Following Mr. Guimond's assurances the meeting ended.

The above summary of the September 15, 1992 meeting presents only a brief overview of a number of the issues which are discussed in the Comments of United Park City Mines Company in Opposition to Proposed Rule, in the Matter of the Proposed Listing of Richardson Flat Tailings, Summit County, Utah, on the National Priorities List, dated April 6, 1992, a copy of which is enclosed herewith.

Thank you, again, for meeting with representatives of United Park and with Congressman Owens' Administrative Assistant and for reassuring us that the decision-making process will be fairly accomplished. Please advise me if you should require any additional information for the record.

Sincerely,



Edwin L. Osika, Jr.
Executive Vice President

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Enclosures: United Park City Mines
Company's Comments
Photographs (6)

cc: Congressman Wayne Owens (without enclosures)

Joshua Sheinkman, Administrative Assistant

to Congressman Owens (without enclosures)

Barbara O. Bach (without enclosures)

✓ Jack W. McGraw, Acting Regional Administrator,

EPA Region VIII (without enclosures)